

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

- - -

GLEENDA JOHNSON, et al.,	:	Case No.
	:	2:11-cv-05782-PD
Plaintiffs	:	
vs.	:	
	:	
SMITHKLINE BEECHAM	:	
CORPORATION, et al.,	:	
	:	
Defendants	:	

- - -

Thursday, June 25, 2015

- - -

Telephonic Interview Under Oath
conducted by SPECIAL DISCOVERY MASTER
WILLIAM T. HANGLEY, ESQUIRE, of Plaintiff,
DARREN GRIGGS, taken pursuant to notice,
held at the law offices of HANGLEY ARONCHICK
SEGAL PUDLIN & SCHILLER, P.C., One Logan
Square, 27th Floor, Philadelphia,
Pennsylvania 19103, beginning at 2:00 p.m.,
on the above date, before MARIA NOELLE
DAMIANI, Registered Merit Reporter,
Certified Realtime Reporter, Certified
Licensed iCVnet Reporter, Certified LiveNote
Reporter, Certified Shorthand Reporter (NJ
License No. 30XI00224100; DE License No.
RPR-117; PA; NY; DC) and a Notary Public.

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1 INTERVIEW OF PLAINTIFFS HELD BEFORE THE
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A P P E A R A N C E S : (Continued)

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C O N T E N T S
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None

1 SPECIAL MASTER HANGLEY: Hi.
2 This is Bill Hangle and I have got
3 Allison Buccola with me.

4 Is anyone here for Hagens
5 Berman?

6 MR. SPIEGEL: Yes, Craig
7 Spiegel and Ashley Bede, and with us
8 in Seattle is Mr. Griggs.

9 SPECIAL MASTER HANGLEY: Thank
10 you.

11 For GlaxoSmithKline?

12 MS. MATOS: Yes, Cassandra
13 Matos for GSK.

14 SPECIAL MASTER HANGLEY: Thank
15 you.

16 For Grunenthal?

17 MS. KUHN-THAYER: Yes, this is
18 Leslie Kuhn-Thayer for Grunenthal.

19 SPECIAL MASTER HANGLEY: And
20 for Sanofi?

21 MR. HENNESSY: Yes, this is
22 Sean Hennessy from Arnold & Porter on
23 behalf of Sanofi.

24 SPECIAL MASTER HANGLEY: Okay.

1 And the court reporter is on?

2 THE COURT REPORTER: Yes, Maria
3 is on.

4 Do I have the consent of all
5 counsel to swear in the witness by
6 telephone?

7 There is no objection, so let's
8 do it.

9 - - -

10 DARREN GRIGGS, after having
11 been duly sworn, was examined and
12 testified as follows:

13 - - -

14 THE COURT REPORTER: Thank you.

15 - - -

16 E X A M I N A T I O N

17 - - -

18 BY SPECIAL MASTER HANGLEY:

19 Q. Good afternoon, Mr Griggs. My name
20 is Bill Hangle. I am a practicing lawyer in
21 Philadelphia, but I have been appointed in
22 this case by the judge in this case to act as
23 sort of a substitute judge, to address
24 certain matters and to make recommendations

1 to the Court with respect to those matters,
2 so for the purposes of this conversation it
3 is as if you were talking to an actual judge
4 even though I am not one. Do you understand
5 that?

6 A. Yes.

7 Q. Okay.

8 SPECIAL MASTER HANGLEY:

9 Mr. Weaver, is there something you
10 want to say? Oh, wait, it's Mr.
11 Spiegel.

12 MR. SPIEGEL: Yes. Based on
13 previous discussions we will forego
14 the statements, with the
15 understanding that it's as if we made
16 the statement, the statement we made
17 at the beginning of all phone calls,
18 if that's agreeable.

19 SPECIAL MASTER HANGLEY: That's
20 fine. Okay.

21 BY SPECIAL MASTER HANGLEY:

22 Q. Mr Griggs, let me ask you first, you
23 are Darren Griggs, the same person who is a
24 named plaintiff in a lawsuit against

1 GlaxoSmithKline and associated companies,
2 Grunenthal and associated companies, and
3 Sanofi-Aventis; is that correct?

4 A. Yes, I am.

5 Q. Yes?

6 A. Yes, I am.

7 Q. And you originally sued
8 GlaxoSmithKline along with the others, and
9 you have recently moved, or have moved
10 several months ago, I suppose, for the
11 withdraw of the claim against GlaxoSmithKline
12 while you continue to prosecute claims
13 against the other defendants; correct?

14 A. Correct.

15 Q. Okay. Now, when Mr. Spiegel didn't
16 make a statement that the lawyers have been
17 making in this case, that statement, if he
18 made it, would have involved the
19 attorney/client privilege and the protection
20 of your attorney/client privilege in this
21 interview, so I want to tell you a little bit
22 about two important doctrines, the
23 attorney/client privilege and the related
24 Work Product Doctrine.

1 The attorney/client privilege is an
2 exception to the rule. The general rule is
3 that if a person has relevant evidence,
4 somebody in a lawsuit can get that evidence
5 through testimony or subpoenaing documents or
6 what have you. That's an important part of
7 how our civil justice system works, but
8 another important part is that people should
9 use the courts rather than the law of the
10 streets and we encourage people to consult
11 with attorneys, see whether they have claims
12 worthy of being pursued and have attorneys
13 capable of pursuing those claims in Court.

14 To make sure that that privilege is
15 efficient and that in order to get people to
16 use the justice system, we have a doctrine
17 that says your communications with your
18 attorney and his with you are not to be
19 probed by third parties so long as those
20 communications, one, are for the purpose of
21 getting legal advice or in the course of
22 giving it; and, two, are given with the
23 expectation of privacy.

24 If those tests are met, the

1 attorney/client privilege is in place,
2 assuming that there isn't one of a handful of
3 other exceptions that might entitle a Court
4 or another party to get past the privilege,
5 but generally speaking, your communications
6 with your attorneys and his with you with the
7 expectation of privacy and relevant to this
8 litigation are protected from being probed by
9 me or by any of the other attorneys here
10 other than of course your own attorneys.

11 You have the right to waive that
12 protection if you want to. Nobody encourages
13 you to do that, and, in fact, you should
14 consult with an attorney before deciding
15 whether or not you want to waive the
16 attorney/client privilege.

17 There's a related protection called
18 the Work Product Doctrine. That offers
19 similar protection to the mental processes of
20 the attorneys in the course of representing a
21 client in a particular case. I said it
22 protects those communications, whether it's
23 conversations, telephone conversations,
24 face-to-face conversations. All sorts of

1 communications between attorney and client
2 outside the presence of third parties are
3 protected. The facts are not protected.

4 If I ask you to tell me a fact or if
5 I ask you to tell me what you believe to be a
6 fact, or if I ask you why you did a certain
7 thing or what your opinion is on a certain
8 thing, you may answer those questions and,
9 indeed, if I tell you to answer them, you
10 have to answer them.

11 It's going to be hard at times to
12 separate out a statement by your attorney
13 from a fact that you know. The fact itself
14 is not privileged, what the attorney said is
15 privileged. So if you find yourself slipping
16 into telling me about what your -- what the
17 Hagens Berman lawyers told you in a letter or
18 on the telephone, do not go that way. If I
19 hear you going that way, I will interrupt
20 you. Your attorneys probably will also
21 object. And we'll be very careful that you
22 want to disclose an attorney/client privilege
23 before we permit you to do that.

24 That's not intended as an insult to

1 you. We just know how complicated some of
2 this business gets.

3 There are going to be objections by
4 Mr. Spiegel, I predict, grounded in the
5 attorney/client privilege or the Work Product
6 Doctrine because reasonable people can differ
7 on how far the privilege goes. I will have
8 to rule on those objections even though I am
9 the person who asked the question. Sometimes
10 I have sustained the objections; far more
11 often I have overruled the objections. When
12 I overrule an objection to one of my own
13 questions, that means that you should answer
14 the question. Don't wait for me to tell you
15 and don't wait for the Hagens Berman attorney
16 or another attorney to tell you to answer the
17 question, you can just go right ahead and
18 answer. We want to take as little of your
19 time and inconvenience you as little in this
20 conversation as possible.

21 Now, I have said a mouthful. And
22 it's all things with which I am familiar, as
23 are the other attorneys in this conversation.
24 We don't expect you to be familiar with them.

1 We expect you to have questions. Before
2 going into any questions you may have, I'm
3 going to give Mr. Spiegel an opportunity to
4 register an objection if he has one.

5 MR. SPIEGEL: The one thing I
6 would say, Mr. Hangley, is that we
7 may disagree on certain facts and
8 whether they are protected by the
9 attorney/client privilege when they
10 necessarily reveal mental processes
11 of the attorneys, but I think we can
12 save that for the particular
13 questions.

14 SPECIAL MASTER HANGLEY: Okay.

15 Thank you very much.

16 BY SPECIAL MASTER HANGLEY:

17 Q. Mr. Griggs, is there any of this
18 you'd like me to go over again?

19 A. No.

20 Q. Okay. Do you think you have a fairly
21 good understanding of the distinction that
22 we're drawing here?

23 A. I believe so.

24 Q. Okay. You already stated that you

1 brought a claim against GlaxoSmithKline and
2 now you have decided to withdraw it. Why?

3 A. Well, the -- the -- the timeline of
4 when they were distributing the medication
5 did not figure into the time that I was born
6 and so it was -- it didn't seem like it was
7 the right -- the right thing to continue with
8 that.

9 Q. Okay. When were you born?

10 A. June 13th, 1962.

11 Q. And was your information to the
12 effect that SmithKline had stopped or said
13 that it had stopped distributing on or about
14 1958?

15 A. Yes.

16 Q. And when did you first hear that
17 SmithKline had stopped distributing in about
18 1958?

19 A. It was -- uhm, it was my lawyers had
20 talked to me about --

21 Q. Stop. Stop. The question was when.
22 I didn't ask you what your lawyers said.

23 A. Okay. Uhm, I don't remember the
24 exact dates.

1 Q. Okay. Can you pin it down to a
2 season of 2014?

3 A. I believe it was later in 2014.

4 Q. Okay. Now, apart from that fact
5 about SmithKline, do you understand what I am
6 saying when I say that's a defense that
7 SmithKline has?

8 A. Uhm, no, I am not sure I do
9 understand.

10 Q. Okay. Okay.

11 MR. SPIEGEL: And I would
12 object to saying it's a defense as
13 opposed to part of the plaintiffs'
14 burden of proof to establish our
15 claims.

16 SPECIAL MASTER HANGLEY: I will
17 -- I will sustain the objection and
18 accept the friendly amendment, Mr.
19 Spiegel.

20 MR. SPIEGEL: Thank you.

21 BY SPECIAL MASTER HANGLEY:

22 Q. Did you know of any defenses that the
23 other two defendants had to your claims?

24 A. Could you repeat that? I'm not sure.

1 Q. Sure. Do you know of any defenses
2 that the other two defendants, Grunenthal and
3 Sanofi, have to your claims?

4 A. The only thing that I, uhm, can
5 really think about is the statute of
6 limitations.

7 Q. Okay. Do you know any details about
8 when, if ever, Grunenthal's products were in
9 the United States?

10 A. It was, uhm, uhm, right around, uhm
11 -- right after, uhm, GSK -- not too far after
12 GSK quit distributing and Richardson-Merrell
13 started distributing and it was continued
14 through the time that I was born.

15 Q. Okay. Okay. Thank you.

16 Now, you said that you learned about
17 this what I will call defense or this
18 assertion that GlaxoSmithKline may have
19 stopped distributing in 1958, but you learned
20 about that in the fall you think of 2014.

21 A. I believe so, yes.

22 Q. At some point did you become aware
23 that GlaxoSmithKline was pursuing motions for
24 sanctions against Hagens Berman based on

1 Hagens Berman's handling of other plaintiffs'
2 claims?

3 A. Yes.

4 Q. Was that at the same time as you
5 learned about the GlaxoSmithKline 1958 date
6 or was it at a different time?

7 A. It was at the same time.

8 Q. Okay. All right. Did you understand
9 that GlaxoSmithKline was attempting to have
10 Hagens Berman penalized for conduct in which
11 their firm supposedly had engaged?

12 A. Yes.

13 Q. Did you understand that
14 GlaxoSmithKline was not attempting to have
15 any of the individual plaintiffs penalized?

16 A. Yes.

17 Q. So did you have a concern that --
18 strike that question.

19 You understood, sir, that
20 GlaxoSmithKline would be benefitted if -- I'm
21 sorry. I have done it again in two
22 successive interviews.

23 You understood that Hagens Berman
24 would be benefitted if GlaxoSmithKline

1 withdrew its sanctions motions?

2 A. Yes.

3 Q. Okay. Did you consider consulting an
4 attorney independent of Hagens Berman, an
5 attorney that didn't have sanctions motions
6 pending against it, in deciding whether you
7 should continue pursuing your claims against
8 GlaxoSmithKline?

9 A. I understand I could have, but I
10 didn't.

11 Q. Okay. And why was that?

12 A. Uhm, uhm, well a couple reasons: The
13 timeline wasn't right, which common sense
14 would tell me we are just kind of wasting the
15 Court's time with that one; and the other
16 thing is, uhm, I pretty much trust my
17 attorneys to do the right thing for me.

18 Q. All right.

19 SPECIAL MASTER HANGLEY: All
20 right. Thank you very much. I have
21 no further questions.

22 MR. SPIEGEL: This is Craig
23 Spiegel. We have no questions.
24 Thank you.

1 SPECIAL MASTER HANGLEY:

2 GlaxoSmithKline?

3 MS. MATOS: No questions for
4 GSK.

5 SPECIAL MASTER HANGLEY:

6 Grunenthal?

7 MS. KUHN-THAYER: I have no
8 questions.

9 SPECIAL MASTER HANGLEY:

10 Sanofi?

11 MR. HENNESSY: No questions.
12 Thank you.

13 SPECIAL MASTER HANGLEY: Okay.

14 Mr. Griggs, thank you very much for
15 your cooperation and attendance.

16 And, folks, we are off the
17 record. We are adjourned.

18 - - -

19 (Witness excused.)

20 - - -

21 (Deposition concluded at
22 approximately 2:19 p.m.)

23

24

C E R T I F I C A T E

I, Maria N Damiani, a
Registered Merit Reporter, Certified Real
Time Reporter, Certified Live Note Reporter,
Certified Court Reporter, certify that prior
to the commencement of the examination,
DARREN GRIGGS, duly sworn by me to testify to
the truth, the whole truth and nothing but
the truth.

I do further certify that the
foregoing is a verbatim transcript of the
testimony as taken stenographically by and
before me at the time, place and on the date
hereinbefore set forth, to the best of my
ability.

I do further certify that I am
neither a relative nor employee nor attorney
nor counsel of any of the parties to this
action, and that I am neither a relative nor
employee of such attorney or counsel, and
that I am not financially interested in the
action.

Maria N Damiani, RMR, CRR, CLR, CCR
Notary number: 1034904
Notary expiration: 12/3/2016
CSR Number Delaware: RPR-117
CSR Number New Jersey: 30XI00224100

Dated: June 29, 2015

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Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney and all counsel within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in Court.

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 E R R A T A
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ACKNOWLEDGMENT OF DEPONENT

I, _____, do
hereby certify that I have read the foregoing
pages, 1 - 21, and that the same is a
correct transcription of the answers given by
me to the questions therein propounded,
except for the corrections or changes in form
or substance, if any, noted in the attached
Errata Sheet.

DARREN GRIGGS

DATE

Subscribed and sworn
to before me this
_____ day of _____, 20____.

My commission expires: _____

Notary Public